

## **REMARKS:**

Claims 10-22, 25, and 27-53 were pending in the application. Claims 43-53 have been canceled. Claims 10-22, 25, and 27-42 have been amended. No claims have been added. Therefore, claims 10-22, 25, and 27-42 are now pending in this application.

Support for the present claim amendments can be found in the originally-filed specification, at least at paragraphs [0023], [0035], and [0043], and Figure 7. No new matter has been added.

### **Statement of Substance of Interview**

Applicant thanks the Examiner for extending the courtesy of conducting a telephone interview on December 22, 2009. Participating in the interview were Examiner Monikang and Applicant's undersigned representative. Applicant's amendment to claim 32 presented herein was discussed in view of the art-based rejections. The Examiner agreed that the present amendments to claim 32 would overcome the present art-based rejections.

### **Written Description Rejections**

Claims 21-22, 25, and 25 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the specification fails to describe the recited features "second recording medium" and "first sub-portion and second sub-portion."

With respect to the "second recording medium," Applicant notes that amended claim 5 no longer recites the objected-to feature, and therefore this basis for rejection is moot.

With respect to the "first sub-portion" and "second sub-portion" features, Applicant submits that the originally filed specification conveys the claimed features with clarity to one of ordinary skill in the art. For example, in the embodiments discussed in paragraphs [0028] to [0029], the specification teaches that "[t]he FIFO need not be able to store the entire time interval between 0 and  $t_1$  but can accommodate just a part of this interval" and that "the apparatus transfers the contents of the FIFO" "which corresponds to  $t_0 = t_1 - F_T$ ." *See also*

Figure 2 (depicting an example of an embodiment in which the time period of length  $F_T$  between times  $t_0$  and  $t_1$  that is a sub-portion (a “first sub-portion”) of the time interval between 0 and  $t_1$ , and the time period 0 to  $t_0$  that corresponds to a sub-portion (a “second sub-portion”) of the time interval between 0 and  $t_1$ ). Accordingly, reconsideration and removal of the rejections is respectfully requested.

## Enablement Rejections

Claims 34 and 43 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. The Examiner asserts:

In claims 34 & in claim 43 in a different variation, the limitation reads "a digital representation of the incoming sound corresponding to a first time period beginning a predetermined length of time before the first predetermined condition is detected and continuing until at least until the first predetermined condition is detected." **Since, the first predetermined condition is when a sound exceeds a threshold level, it is clear that the time before the threshold is exceeded cannot be predetermined because the sound might take a longer period before crossing the threshold.** Therefore since the period before the first level threshold is exceeded depends on how long an incoming sound takes to exceed a predetermined threshold, it would be unreasonable to set forth "a predetermined length of time before the first predetermined condition is detected" as claimed. Therefore, the claim is analyzed and rejected accordingly. that based on the

Office Action at 2-3 (emphasis added). Applicant respectfully disagrees. Applicant notes that although the “first predetermined condition” is detected by the device (and therefore may be dependent on the incoming sound), it does not follow that “it would be unreasonable to set forth a predetermined length of time before the first predetermined condition is detected” as the Examiner asserts. The Examiner’s interpretation appears to assume that the “first time period” and the “predetermined length of time” must begin at a globally fixed time (e.g., a fixed “time = 0” reference time). However, neither the claims nor the specification include such a requirement. In contrast, consider the specification’s discussion with respect to Figure 2. In the embodiments discussed in paragraphs [0028] to [0029], the specification teaches that “[t]he FIFO need not be able to store the entire time interval between 0 and  $t_1$  but can accommodate just a part of this interval” and that “the apparatus transfers the contents of the FIFO” “which

corresponds to  $t_0 = t_1 - F_T$ .” Figure 2 of the specification, reproduced below, depicts an example of an embodiment in which a time period between  $t_0$  and  $t_1$  (a “first time period”) begins at time  $t_0$ , and is of length  $F_T$  (a “predetermined length of time”) before time  $t_1$  (the time of the “first predetermined condition”).<sup>1</sup>

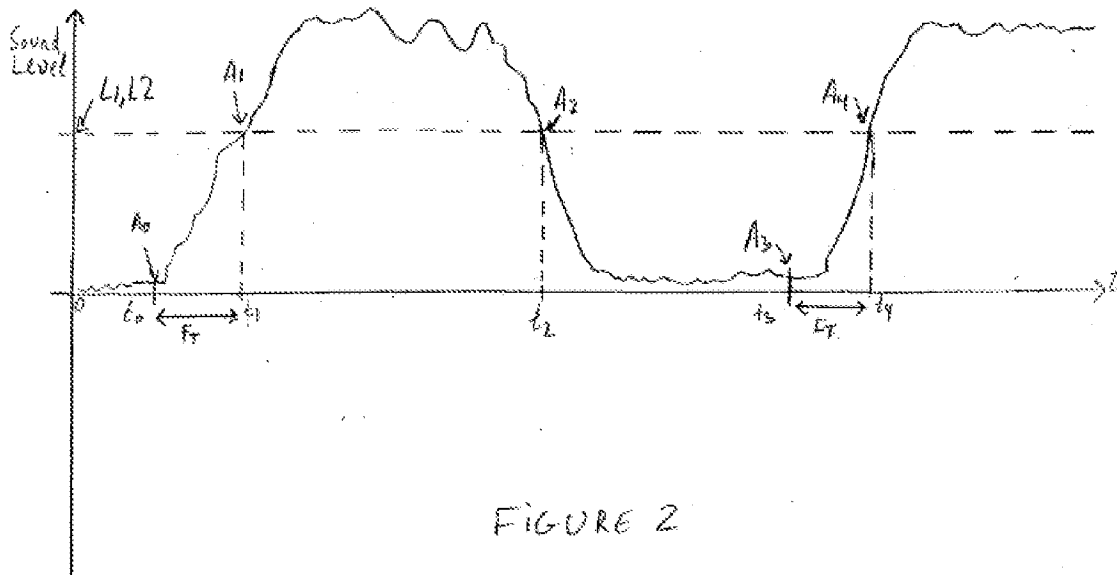


FIGURE 2

Accordingly, Applicant submits that the originally filed specification provides sufficient disclosure of the claimed subject matter as to enable one of ordinary skill in the art to make and use the claimed invention. Reconsideration and withdrawal of the rejection is respectfully requested.

### Indefiniteness Rejection

Claims 34 stands rejected under 35 U.S.C. § 112, second paragraph as being indefinite based on a lack of antecedent basis for the recited term “the predetermined condition.” The claim has been amended to recited “the first predetermined condition.” Reconsideration and withdrawal of the present rejection is respectfully requested.

<sup>1</sup> It appears that by the rationale supporting the Examiner’s rejection would require the “first time period” in the embodiment described in Figure 2 to begin at time 0, instead of time  $t_0$  as discussed above.

## Art-Based Rejections

The pending claims stand rejected under 35 U.S.C. § 1.02(b) and 35 U.S.C. § 103(a) as being unpatentable over Yoshizaki (US Patent 5,870,365) and various combinations of Yoshizaki, Graumann (US Patent Pub. 2004/0264711), Smith (US Patent Pub. 2002/0173864), Fielder (US Patent 5,845,240), and Miura (US Patent Pub. 2002/0183873). Applicant respectfully disagrees with the rejections. However, amendments are presented herein in an effort to bring the claims to issue more rapidly. In view of the present claim amendments and the remarks below, withdrawal of the present rejections of the pending claims is respectfully requested.

Yoshizaki is directed to “a start ID recording system for use in a digital audio information recording apparatus.” Yoshizaki at col. 1, lines 7-9. Fielder is directed to “a process for selectively recording or recalling events.” Fielder at Abstract. The Examiner acknowledges that “the Yoshizaki et al and Fielder references fail to disclose the communication being carried out wirelessly.” Office Action at 13. However, the Examiner asserts that “[i]t would have been obvious to utilize a wireless microphone within the system since wireless microphones are commonly used and they provide portable systems with less wiring.” Office Action at 14. Applicant submits that even assuming *arguendo* that the use of a wireless microphone in the systems taught by Yoshizaki and Fielder would be obvious, such a combination would only teach that received sound data can be wirelessly transmitted from a microphone to the systems taught by Yoshizaki and Fielder. In contrast, amended claim 10 recites “in response to determining” “that the incoming sound satisfies an initiation criteria, the device” “**wirelessly transmitting** the data retrieved from the buffer,” “**wirelessly transmitting** data that is representative of incoming sound received after the first point in time,” and “in response to determining that the received incoming sound satisfies a termination criteria” “the device **discontinuing the wireless transmission** of the data that is representative of the incoming sound.” Thus, Yoshizaki and Fielder fail to teach or suggest all features of amended claim 10.

The other cited references fail to cure the deficiencies of Yoshizaki and Fielder. Applicant notes that the Examiner does not assert that the Graumann, Smith, or Miura references teach or suggest the above-discussed “wirelessly transmitting” features. Graumann is directed to analyzing an audio signal “to determine a power spectral density profile” to facilitate selective

attenuation of frequency bands of the audio signal. Graumann at Abstract. Smith is directed to “a method and system for digitally and automatically adjusting the audio volume of digitized speech signals.” Smith at Abstract. Miura discloses a system for improving the sound quality of dubbed audio signals by addressing errors during data transfer. Miura at [0012]. Applicant submits that the cited references, taken alone or in combination, fail to teach or suggest the features “in response to determining” “that the incoming sound satisfies an initiation criteria, the device” “**wirelessly transmitting** the data retrieved from the buffer,” “**wirelessly transmitting** data that is representative of incoming sound received after the first point in time,” and “in response to determining that the received incoming sound satisfies a termination criteria” “the device **discontinuing the wireless transmission** of the data that is representative of the incoming sound” recited in claim 10.

For at least the reasons stated above, the cited references do not teach or suggest all of the features recited in claim 10. Thus, neither a § 102 or a § 103 rejection of claim 10 is supported. Similar remarks apply to the claims that depend from claim 10, and stand rejected on similar grounds. These remarks also apply to independent claims 21, 28, 32, and 34, and the claims that dependent therefrom (although these claims have different scope than claim 10). Accordingly, Applicant respectfully requests reconsideration and removal of the present rejections.

**CONCLUSION:**

Applicant respectfully submits the application is in condition for allowance, and an early notice to that effect is requested.

Applicant has petitioned herewith for what is believed to be the appropriate extension of time. If any further extensions are necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/6057-27400/EM.

Also filed herewith are the following items:

- ☒ Request for Continued Examination
- ☒ Petition for Extension of Time

Respectfully submitted,

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